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Attorneys for Defendant
Ray J. Garcia

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAY J. GARCIA,

Defendant.

CASE NO.: 4:21-CR-00429-YGR

ADDITIONAL EXHIBITS H AND I IN SUPPORT
OF RAY J. GARCIA'S MOTION FOR NEW TRIAL
[F.R.Cr.P. 33; Criminal Local Rule 47-2]

Hearing: March 15, 2023
Time: 2:00 p.m.
Courtroom: 1, 4th Floor
Oakland Federal Courthouse
1301 Clay Street, Oakland, CA 94612

TO THE HONORABLE COURT:

Defendant Ray Garcia, through his undersigned counsel and in accordance with Federal Rule of Criminal Procedure 33 and Northern District Criminal Local Rule 47-2, hereby respectfully submits two additional exhibits in further support of his motion filed yesterday.

The first additional exhibit is Exhibit H, the declaration of Yovanna Mangra. Ms. Mangra was unavailable to return her signed declaration yesterday, due to a family medical emergency. The second additional exhibit is Exhibit I, the declaration of James Shank, which further supports Mr. Garcia's claims of newly discovered evidence. Mr. Shank was traveling yesterday and did not have an opportunity to return his signed declaration until this afternoon, due to traveling.

Mr. Garcia respectfully requests that the Court consider these two additional exhibits. They collectively corroborate the declaration of Dan Flint, which was submitted yesterday as Exhibit C to the defendant's new trial motion.

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3 Dated: February 3, 2023

/s/ Kevin G. Little

Kevin G. Little

Counsel for Defendant

Ray J. Garcia

EXHIBIT H

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11 IN THE UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
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14 UNITED STATES OF AMERICA,
15
16 Plaintiff,

17 v.

18 RAY J. GARCIA,
19
20 Defendant.

CASE NO.: 4:21-CR-00429-YGR

DECLARATION OF YOVANNA MANGRA

21 The undersigned, Yovanna Mangra, hereby declares as follows:

- 22 1. I am employed with the Federal Bureau of Prisons. I have worked for the Bureau of
23 Prisons for 7 years, FCI Dublin.
- 24 2. In September 2022, I was contacted by a defense investigator, Mr. Kohler. I told Mr.
25 Kohler I was willing to testify but that to answer more detailed questions and/or testify, I would need to
26 be served with a subpoena, since I am a current BOP employee. I was never served with a subpoena or
27 recontacted about testifying.
- 28 3. If called as a witness in Mr. Garcia's case, I could have testified that female inmates
engage in voluntary inappropriate displays of their bodies and other sexual-type misconduct. It would
necessarily have been victimized.
4. If called as a witness, I could truthfully incompetently testify to the foregoing under oath.

1 Sworn under penalty of perjury under the laws of the United States of America, this 2nd day of
2 February 2023.

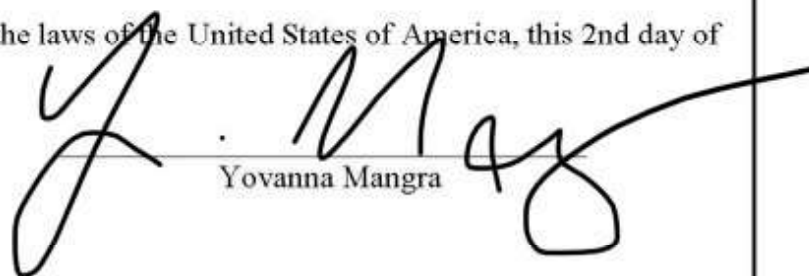
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4 Yovanna Mangra
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EXHIBIT I

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22
23 DECLARATION OF JAMES SHANK
24

25 The undersigned, James Shank, hereby declares as follows:

26 1. I am retired from the Federal Bureau of Prisons. I worked for the Bureau of Prisons for 28
27 years, starting out as a correctional officer, and eventually retiring as a Captain. During my career, I
28 worked several years in a women's facility, specifically the female prison camp on the campus of
Dublin. I worked at several BOP facilities during my career.

2. If called as a witness in Mr. Garcia's case, I could have testified that facility wardens, and
other members of a facility's Executive Staff are closely monitored when they move about in the
facility, since line staff make it their business to know when Executive Staff members are approaching
their work areas. It is therefore unlikely that Mr. Garcia could have gone anywhere in the FCI Dublin
facility without staff members being aware and, once he got to a particular housing unit, in his
immediate presence. There would also be an electronic security trail documenting the travel of
Executive Staff through the facility.

1 3. It is well-known within the Bureau of Prisons, that female inmates, like their male
2 counterparts, engage in voluntary inappropriate displays of their bodies and other sexual-type
3 misconduct. There can be a variety of reasons for this behavior, including attempting to manipulate staff.
4 This practice is so widespread that it even has a nickname — gunning. It would simply be incorrect for
5 anyone to believe that a female inmate depicted in an inappropriate manner would necessarily have been
6 victimized.

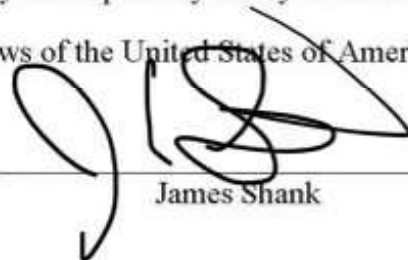
7 4. If called is a witness, I could have testified in detail from my many years of experience in
8 the Bureau of Prisons regarding voluntary, aggressive, sexual type, misconduct, engaged in by female
9 inmates. Even if there may be photographs showing that a staff member depicted an inmate in a sexual
10 tight pose, that hardly means that the staff member somehow coerced the inmate to be in that position.

11 5. In the fall of 2022, I was contacted by a defense investigator, Mr. Kohler, who spoke with
12 me for about 30 minutes, but there was no follow-up regarding whether or not I would be needed to
13 testify on behalf of Mr. Garcia. I provided Mr. Kohler with the information outlined in the foregoing
14 paragraphs. I never heard further from anyone.

15 6. I am local to the State of California, so it would have been relatively easy for me to go to
16 court and testify.

17 7. If called as a witness, I could truthfully incompetently testify to the foregoing under oath.

18 Sworn under penalty of perjury under the laws of the United States of America, this 2nd day of
19 February 2023.

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21 _____
22 James Shank
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